HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

WP M/S No. 1045/06
Saunali Malik & others
vs
Uttaranchal Shiksha Evam Ramnagar

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 6.8.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1045 (MS) OF 2006

1. Saunali Malik,
   D/o Sri Naresh Kumar Malik,
   C/o Sompal Singh Rana,
   R/o Mohalla-Gujratiyan,
   Rana Clinic, Gandhi Park,
   Jaspur, District-Udham Singh Nagar.
2. Ruchi Malik,
   D/o Sri Naresh Kumar Malik,
   R/o Mohalla-Gujratiyan, Rana Clinic,
   Gandhi Park, Jaspur,
   District-Udham Singh Nagar.
3. Km. Komal Sharma,
   D/o Sri Ashwini Sharma,
   Co Sompal Singh Rana,
   R/o Mohalla-Gujratiyan, Rana Clinic,
   Gandhi Park, Jaspur,
   District-Udham Singh Nagar. .....Petitioners.

Versus

The Uttaranchal Shiksha Evam Pariksha Parishad Ramnagar, through its Secretary. .....Respondents.

Dated: 06.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri S.C. Bhatt, Advocate for the petitioner and Sri V.K. Bisht, Sr. Advocate, assisted by Sri Sushil Vashisth, Advocate for the petitioner.

2. By the present writ petition, the petitioners have prayed for a writ of mandamus commanding the respondents to revaluate the answer book of the petitioners for which they have applied by some expert examiners in his presence and further to correct the mark-sheets of the petitioner.

3. Briefly stated, according to the petitioner, they appeared as a regular student in Intermediate Examination, 2006 conducted by the respondent in all subjects having Roll No. 0077289, 007287 and 0077267 from G.G.I.C. Jaspur, District Udham Singh Nagar.

4. The petitioner appeared in all the papers and answered all the questions to his full satisfaction and thereafter, the result was declared in local daily newspaper.

5. After getting the marksheet, the petitioners became disappointed as they were in full hope that they will secure much more marks than they have got.

6. Petitioners have got following marks for which they have applied:-

Petitioner no. 1:- Biology I (12), Biology II (12), Chemistry I (6), Chemistry II (7), Physics I (8), Physics II (12).

Petitioner no. 2:- Biology I (12), Biology II (7), Chemistry I (6) Chemistry II (12), Physics I (5), Physics II (8).

Petitioner no. 3:- Mathematics I (15), Mathematics II (13), Mathematics III (20), Chemistry I (14), Chemistry II (12).

7. The petitioners have moved an application for scrutiny by depositing requisite fee for the scrutiny of the aforesaid papers.

8. Sri V.K. Bisht, Sr. Advocate, has submitted that let the petitioners apply for scrutiny and the same shall be done by the Uttaranchal Shiksha Evam Pariksha/respondent.

9. In ***Vaibhav Pandey Vs. Board of High School and Intermediate Education (1998) 2 U.P.L.B.E.C. 1501,*** it has been held as under:-

> *"2. The past record of the petitioner indicates that he is on exceptionally brilliant student. In High School examination, the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner has been awarded 19 marks out of 32 in Hindi 3rd Papers. The petitioner has been awarded much higher marks in other subjects. The apprehension of the petitioner is that his answer book of Hinda IIIrd paper has not been correctly examined.*
>
> *3. This writ petition is finally disposed of with the direction that respondent no.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School examination, 1998 within a period of one month from the date of certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent no.2, the petitioner's guardian may also remain present. If any discrepancy is found in the*

answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476."

The aforesaid judgment has also been followed in Trishma Singh Vs. U.P. Intermediate Education Board Allahabad, 2001 U.P. Local Bodies Cases 2071. Paragraph-7 of the judgment is important which is quoted below:

"Learned counsel, for the petitioner has placed reliance on the case of Vaibhav Pandey v Board of High School & Intermediate Education (1988) 2 UPLBEC, 1501, in which this Court held as under :-

This writ petition is finally disposed of with the direction that respondent no.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent nO.2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1066476."

10. It has further been held by the Allahabad High Court in the case ***Mobeen Ahmad Ansari vs. State of U.P. and others (1999) 1 UPLBEC 603*** as under:

" It is a matter of great concern that in the recent years there is consideration influx of such writ petitions in this Court has increased. Earlier the Board of High School and Intermediate Education had inspired so much confidence that seldom writ-petition were filed. Filing of writ petition on such a large scale before this Court indicate that there is considerable dissatisfaction among the students and their parent which requires introspection by the Board authorities as well. Although

this Court seldom interfere in the revaluation of the marks, but with a view to have greater accountability and transparency there is a need for framing some certain rules to rectify the error, mistakes or defection calculation of the marks."

11. Thus, the respondent is directed to get the scrutiny of the answer books of the papers mentioned above, if they have applied/apply for the same, in accordance with the aforesaid judgments of the Allahabad High Court, where it has been held that there should be transparency of the marks and the petitioner may not be deprived from his legitimate claim.

12. Respondent is directed to get the scrutiny done after the petitioner applies for the same as expeditious as possible.

13. Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

06.08.2006
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